

Appendix I: Perkins/NDSL Due Diligence Checklist

CONTACTS WITH THE BORROWER [\(34 CFR 674.42\)](#)

- ☐ Conducted an Exit Interview
 - ☐ Disclosure of Repayment Information
- ☐ Grace Period Contacts
 - ☐ 9-month initial grace period
 - ☐ 1st contact (90 days after the commencement of any grace period)
 - ☐ 2nd contact (150 days after the commencement of any grace period)
 - ☐ 30-day billing notice (240 days after the commencement of any grace period)
 - ☐ 6-month initial grace period & post deferment grace periods
 - ☐ 1st notice (90 days after the commencement of any grace period)
 - ☐ 30-day billing notice (150 days after the commencement of any grace period)

BILLING PROCEDURES [\(34 CFR 674.43\)](#)

TYPE OF BILLING SYSTEM USED:

- ☐ Coupon System (coupon must be sent to borrower at least 30 days before the first payment is due, OR
- ☐ Billing System
 - ☐ Statement of account at least 30 days before first payment is due
 - ☐ Statement of account 15 days before due date of subsequent payments
- ☐ Electronic transfer of funds
 - ☐ Statement of account at least 30 days before first payment is due
 - ☐ Annual statement of account thereafter

LATE CHARGES (for period of enrollment beginning on or after 1/1/86):

- ☐ A late charge is required when the borrower's payment becomes overdue (not to exceed 20 percent of the installment payment most recently due)
- ☐ Borrower notified of the amount of the late charge imposed

OVERDUE NOTICES:

- ☐ First overdue notice 15 days after payment due date
- ☐ Second overdue notice 30 days after first overdue notice
- ☐ Final Demand Letter 15 days after second overdue notice

TELEPHONE CONTACT (If borrower does not respond to final demand letter within 30 days):

- ☐ Telephone contact made with borrower before beginning collection procedures (must make two attempts to reach the borrower on different days and different times)
- ☐ Contacting the endorser, if applicable (for loans before July 23, 1992)

ACCELERATION (if loan is accelerated):

- ☐ Notice of intent to accelerate provided 30 days before acceleration
- ☐ Notice of acceleration provided on or after the effective date of acceleration

Remember, Acceleration is an option, not a requirement

ADDRESS SEARCHES [\(34 CFR 674.44\)](#)

IF MAIL, OTHER THAN UNCLAIMED MAIL, SENT TO BORROWER IS RETURNED UNDELIVERED, INSTITUTION SHALL TAKE STEPS TO LOCATE THE BORROWER

- ☐ Institutional records reviewed in all appropriate offices for an updated address on the borrower
- ☐ Printed or web-based telephone directories & information operators used to obtain new address
- ☐ ED Skiptracing Service used

ADDRESS SEARCHES (CONT'D)

IF ALL OF THE ABOVE FAILS

- ☐ Institutional personnel used to attempt to locate the borrower, or

- ☐ Account referred to commercial skiptracing service
- IF SKIPTRACING IS UNSUCCESSFUL
- ☐ Reasonable attempt to locate the borrower at least twice a year

COLLECTION PROCEDURES [\(34 CFR 674.45\)](#)

- ☐ Inform the borrower of the availability of the Student Loan Ombudsman's Office

CREDIT BUREAU REPORTING

- ☐ Defaulted borrower reported to credit bureau, unless prohibited by state law

EFFORTS TO COLLECT

- ☐ First Collection effort
 - ☐ Institutional personnel used to collect
- OR
- ☐ Collection firm used to collect

If first attempt to collect cannot convert the account to regular repayment status by the end of 12 months (or if the borrower does not qualify for forbearance, deferment, postponement, or cancellation)

- ☐ Litigation
- OR

- ☐ Second effort to collect
 - ☐ Institutional personnel used to collect - if the school first attempted to collect by using its own personnel, it must refer the account to a collection firm unless state law prohibits doing so
 - ☐ Collection firm used to collect - if the school first used a collection firm, it must attempt to collect by using its own personnel or by using a different collection firm, or the school must submit the account to ED for assignment
 - ☐ 12-month limit on unsuccessful collection attempt by any entity

If first and second attempts to collect are not successful

- ☐ Annual attempt to collect from the borrower

CEASING COLLECTION [\(34 CFR 674.47\(g\)\)](#)

- ☐ Defaulted account with a balance less the \$25 (if the borrower has been billed for the balance)

- ☐ Defaulted accounts with balances of less than \$200 (if the school carried out the required due diligence and if the account has had no activity for four years)
- ☐ Write-off balances of less than \$5 [\(34 CFR 674.47 \(h\)\)](#)
- ☐ Fund must be reimbursed if payment is received from a borrower after loan is written off

ALTERNATIVES TO AVOID LITIGATION

- ☐ Collection Costs Waiver
 - ☐ Waive the percent of collection costs on a loan equal to the percent of principal and interest for which the borrower makes a lump-sum payment
 - ☐ Fund must be reimbursed for all collection costs initially charged to the Fund and subsequently paid by the borrower
- ☐ Compromise [\(34 CFR 674.33\(e\)\)](#), 674.47 (d)
 - ☐ The repayment of a defaulted student loan may be compromised if the school has duly complied with all due diligence requirements and the borrower pays, in a single lump-sum payment, at least 90 percent of the outstanding principal balance, plus all interest and collection fees
- ☐ Rehabilitation
 - ☐ A borrower may rehabilitate a defaulted Perkins Loan by making 12 consecutive on-time payments. A rehabilitated loan is returned to regular repayment status

LITIGATION PROCEDURES [\(34 CFR 674.46\)](#)

IF ALL OF THE FOLLOWING CONDITIONS ARE MET, THE SCHOOL MUST LITIGATE:

- ☐ Borrower owes total amount of \$200 or more (principal, interest, late charge & collection costs) on a combination of Defense, Direct or Perkins loans
- ☐ Borrower can be located and served with process
- ☐ Borrower either has enough assets attachable under state law to cover a major portion of the debt or enough income that can be garnished under state law to satisfy a major portion of the debt over a reasonable period of time (defining a "reasonable period of time" is left to the school)

- ☐ Borrower does not have a defense that will bar judgement for the school, and
- ☐ the expected cost of litigation (including attorneys' fees) does not exceed the amount that can be recovered from the borrower

BANKRUPTCY PROCEDURES [\(34 CFR 674.49\)](#)

UPON RECEIPT OF BANKRUPTCY NOTICE:

- ☐ Collection effort suspended
- ☐ Filed a proof of claim, unless Chapter 7 notice states borrower has no assets
- ☐ Suspended collection efforts against any endorser (Chapter 12 and Chapter 13 Bankruptcy code)
- ☐ Proper objections/complaints filed, if appropriate

UNDUE HARDSHIP DETERMINATION:

- ☐ Determine if the borrower filed for dischargeability determination on the ground of undue hardship. (Effective October 8, 1998, a borrower may no longer have a student loan automatically discharged due to bankruptcy if the loan has been in repayment for seven years or more. Instead, a borrower must now obtain undue hardship ruling for any loan discharge.) [11 U.S.C. 523 \(a\) \(8\)](#)
- ☐ If borrower files for bankruptcy requesting discharge of Perkins on the ground of undue hardship, the school must decide, on the basis of reasonably available information, whether repayment under the current repayment schedule would impose undue hardship on the borrower and his or her dependents
 - ☐ If school concludes repayment would NOT impose an undue hardship, the school must decide whether the expected costs of opposing the discharge would exceed one-third of the total amount owed on the loan (principal, interest, late charges, and collection costs)
 - ☐ If expected costs do not exceed one-third of the total amount owed on the loan, the school MUST oppose the discharge. If the borrower is in default, the school must also seek a judgment for the amount owed
 - ☐ A school may file complaint with the court to obtain a determination that the loan is not dischargeable and to obtain a judgment on the loan

PROCEDURES FOR RESPONDING TO PROPOSED CHAPTER 13 REPAYMENT PLAN:

- ☐ If borrower's repayment plan for the Perkins Loan proposes full repayment of the loan, including all principal, interest, late charges and collection costs on the loan, no response from the school is required
- ☐ No response is required if the plan does not include any provision in regard to the Perkins Loan obligation or to general unsecured claims
- ☐ If borrower proposes to repay less than the total amount owed, the school must determine the amount of the loan dischargeable under the plan. The school must also determine whether the proposed repayment plan meets the requirements of [11 U.S.C. 1325](#). Two requirements are particularly relevant:
 - ☐ The amount to be paid under the plan must at least equal the amount the school would receive if the debtor had filed under Chapter 7 rather than under Chapter 13
 - ☐ To pay creditors under the plan, the debtor must use all income not needed to support himself or herself and his or her dependents
- ☐ The school must object if the repayment plan does not meet the requirements of [11 U.S.C. 1325](#).
- ☐ If the borrower proposes to repay less than the total amount owed, the school must determine whether grounds exist for the school to move to have the Chapter 13 case either dismissed or converted to Chapter 7 proceeding [11 U.S.C. 1307](#).
- ☐ The school must monitor the borrower's compliance with the repayment plan confirmed by the court. If the school confirms the borrower is not in compliance, or has filed for a hardship discharge under [11 U.S.C. 1328 \(b\)](#), the school must determine if grounds exist to dismiss the case filed under Chapter 13 or convert to a Chapter 7 case. If grounds do exist, the school MUST move to convert or dismiss the case
- ☐ The school must also oppose the hardship, if the borrower has not demonstrated entitlement to hardship discharge under [11 U.S.C. 1328 \(b\)](#) - unless the costs of these actions when added to those already incurred, would exceed one-third of the dischargeable debt

RESUMPTION OF BILLING AND COLLECTION

RESUMED BILLING AND COLLECTION FROM THE BORROWER
IF:

- ☐ Borrower's petition for relief in bankruptcy has been dismissed, or
- ☐ Court has NOT found that repayment would impose an undue hardship, or
- ☐ Borrower loan is not exempted from discharge under other applicable provision of the Code, or
- ☐ Bankruptcy petition didn't provide for the loan obligation or unsecured claims in general.
- ☐ Resumed collection from the endorser of a loan on which a borrower has filed Chapter 13 and the case has been completed or dismissed, or the stay has been lifted
- ☐ Deposited any payment received from a borrower into the FUND after a loan has been discharged in bankruptcy

ASSIGNMENT [\(34 CFR 674.50\)](#)

INSTITUTION MAY SUBMIT A DEFAULTED LOAN FOR
ASSIGNMENT IF:

- ☐ The institution is unable to collect despite complying with due diligence requirements
 - ☐ The total amount of the borrower account (principal, interest, late charges, and collection costs) is \$25 or more on a combination of Defense, Direct and Perkins loans
- AND
- ☐ The loan has been accelerated